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13 B&G FOODS NORTH AMERICA, INC.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

B&G FOOD NORTH AMERICA, INC.,

Plaintiff,

v.

KIM EMBRY and NOAM GLICK, acting in the
purported public interest of the general public of
the State of California,

Defendants.

Case No. 2:20-cv-00526-KJM-DB

**DECLARATION OF DAVID H.
KWASNIEWSKI IN OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS
COMPLAINT**

Date: July 24, 2020
Time: 10:00 a.m.
Judge: Hon. Kimberly Mueller
Courtroom: 3

I, David H. Kwasniewski, declare:

1. I am licensed to practice before this Court and am an attorney at BraunHagey & Borden LLP, counsel for Plaintiff B&G Foods North America, Inc. in this action. If called as a witness, I could, and would, testify competently to the facts below.

2. On March 20, 2020, I attended a meet and confer with Embry's lawyers about scheduling her deposition. During that call, Embry's lawyers objected to B&G Foods taking her deposition, stating that Embry lacked any "percipient knowledge" regarding the claim she asserted against B&G Foods.


3. The table below summarizes the following information from OEHHA's Budget Report, a true and correct copy of which is attached as **Exhibit 1**: (1) OEHHA's annual budget; (2) the amount of funding OEHHA received from Proposition 65 civil penalties; and (3) the percentage of OEHHA's annual budget that was funded by Proposition 65 civil penalties. As shown in the table below, Proposition 65 civil penalties have accounted for more than 15 percent of OEHHA's annual budget over the last three fiscal years:

Year	OEHHA Budget	Prop. 65 Civil Penalties	Percentage of Funding
2017-18	\$23.453 Million	\$3.702 Million	15.8%
2018-19	\$28.615 Million	\$4.764 Million	16.6%
2019-20	\$28.362 Million	\$3.909 Million	13.8%
Cumulative	\$80.43 Million	\$12.38 Million	15.4%

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: June 1, 2020

By:


David H. Kwasniewski